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JTOG Recd PCT/PTO 27 NOV 2002

NIDN-73132

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: E. Harling, et al. Group Art Unit: To be assigned  
Serial Number: 10/009,990 Examiner: To be assigned  
Filing Date: To be assigned  
Title: Ventilation System

Petition Under 37 C.F.R. 1.47 (a)

Honorable Assistant Commissioner for Patents  
Box PCT  
Washington, DC 20231

RECEIVED

27 NOV 2002

International Division

Sir:

The undersigned states and declares as follows:

12/30/2002 LLANDGRA 00000108 500588 10009990

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1. I am a registered patent attorney authorized to practice before the United States Patent and Trademark Office (Reg. No. 39,939).
2. I am employed by Amersham Health AS, formerly known as Nycomed Imaging AS (the owner of international patent application number PCT/GB00/02226, to which the instant application claims priority, and all patents and applications claiming priority thereto) and its affiliate Amersham Biosciences Corp as Patent Counsel. As part of my duties in that position, I am responsible for coordinating

the United States filing of international patent applications owned by Amersham Health AS, including the captioned application.

3. The captioned application was filed on December 7, 2001, and claims priority, *inter alia*, to international patent application number PCT/GB00/02226 filed June 8, 2000, and to patent application number 9913321.7, filed June 8, 1999, in Great Britain. The referenced patent application claims the benefit of United States provisional patent application number 60/138,057 filed June 8, 1999.
4. On April 9, 2002, a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed in connection with the captioned application for lack of a signed oath or declaration. A declaration, attached hereto as Exhibit 1, was prepared and attempts were made to contact the inventors via First Class United States postal service and via the United States Post Office using the service "Certified Return Receipt Requested."
5. The first inventor, Earl Harling, the fifth inventor, Ann Byar, and the sixth inventor, Gary Tobin, executed and dated the declaration and returned the original to me for filing in response to the notice. The second inventor, Nicholas Zappacosta, the third inventor, Walt Bateman and the fourth inventor, Robert Orlowski, have failed to execute the declaration and/or have not been found or reached after diligent effort.

6. The declaration was mailed to inventor Nicholas Zappacosta on June 27, 2002, via First Class United States postal service and via the United States Post Office using the service "Certified Return Receipt Requested." The envelopes were returned by the United States Post Office stamped "Returned to Sender – Not Deliverable as Addressed Unable to Forward." The address on the transmittal letter and the envelopes is the last known address for this inventor. A copy of the transmittal letter and the stamped envelopes are attached hereto as Exhibit 2.
7. The declaration was mailed to inventor Walt Bateman on June 27, 2002, via First Class United States postal service and via the United States Post Office using the service "Certified Return Receipt Requested." The envelope mailed via First Class Mail was not returned. The envelope mailed using the service "Certified Return Receipt Requested" was delivered as the return receipt arrived with inventor Walt Bateman's signature affixed. However, the United States Post Office failed to stamp the return receipt or manually enter the date inventor Walt Bateman signed for the envelope. A copy of the return receipt is attached hereto as Exhibit 3. Inventor Walt Bateman has failed to execute and return the declaration he received.
8. The declaration was mailed to inventor Robert Orłowski on June 27, 2002, via First Class United States postal service and via the United States Post Office using the service "Certified Return Receipt Requested." The envelope mailed via First Class Mail was not returned. The envelope mailed using the service

"Certified Return Receipt Requested" was delivered as the return receipt arrived with inventor Robert Orlowski's signature affixed. The United States Post Office stamped the date inventor Robert Orlowski signed for the envelope as July 2, 2002. A copy of the return receipt is attached hereto as Exhibit 4. Inventor Robert Orlowski has failed to execute and return the declaration he received.

9. The due date for filing the declaration in connection with the captioned application, with a three months extension of time, is September 9, 2002. It is respectfully requested that the declarations signed by inventors Earl Harling, Ann Byar and Gary Tobin be accepted under 37 C.F.R. 1.47 (a) on behalf of themselves and the nonsigning inventors. Such action is necessary to prevent the application from becoming abandoned, to preserve the rights of the parties, and to prevent irreparable damage.
9. In the event that I am able to subsequently obtain signatures of inventors Nicholas Zappacosta, Walt Bateman and/or Robert Orlowski, a supplemental declaration(s) executed by the inventor(s) will be filed.
10. Please charge Applicant's Deposit Account Number 500-588 in the amount of \$130.00 to cover the fee for this petition. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Applicant's Deposit Account Number 500-588.

11. A response to the "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" mailed April 9, 2002, is being simultaneously submitted attaching the declarations executed and dated by three of the six inventors. An authorization to charge the surcharge of \$130.00 is included with the response. Additionally, enclosed therewith is a "Petition for Extension of Time Under 37 C.F.R. 1.136(a) (Large Entity)" authorizing the charge for a three months extension of time for response fee of \$920.00 to Applicant's Deposit Account Number 500-588.
12. Please direct any outstanding issues directly to Applicant's representative at the contact number listed below.

Respectfully submitted,



Robert F. Cusholm  
Reg. No. 39,939  
Attorney for Applicants

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 6 Sept 02

Melissa Leck  
Signature Melissa Leck  
Date September 6, 2002